

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
SEPTEMBER 12, 2007**

CALL TO ORDER A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Michael Mower, Randy Toavs, Gordon Cross, Gene Dziza, Kathy Robertson, Kim Fleming, Barry Conger and Frank DeKort. Don Hines had an excused absence. Eric Giles, Alex Hogle, and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were approximately 10 people in the audience.

PUBLIC REVIEW Gene Dziza reviewed the public hearing process.

APPROVAL OF MINUTES DeKort made a motion seconded by Robertson to approve the August 8, 2007 minutes.

The motion was carried by quorum.

PUBLIC COMMENT
(not related to agenda items)

None.

**PRELIMINARY PLAT/
TAYLOR ACRES
FPP07-24** A request by William Mann for Preliminary Plat approval of Taylor Acres, a 7 lot single-family residential subdivision on 6.59 acres. Lots in the subdivision are proposed to have multiple-user water and individual septic systems. The property is located at 188 Pheasant Road south of Columbia Falls.

STAFF REPORT Alex Hogle reviewed Staff Report FPP -07-24 for the Board.

BOARD QUESTIONS Fleming asked if the private road was in the right-of-way.

Hogle said it is misaligned as many roads in Montana are. It does not necessarily line up the way it should on paper. The road is a private road with a 60-ft utility easement.

Fleming asked where the easement would be.

Hogle said the easement would be on the applicant's property.

Fleming asked what it meant to chip-seal the road.

Hogle said it is a form of sealing the road and is accepted as a form of paving.

Fleming asked who the legal owner of the property is.

Hogle said William Mann owns the property.

Conger asked if the local road would be chip-sealed and if Pheasant Road would be paved.

Hogle said yes.

Dziza asked if he could clarify Glen Gray's comments.

Hogle said it was addressed in the Staff Report. He showed on the map what Gray's comments were discussing.

Toavs asked if the end of the pavement to the subdivision would stay gravel.

Hogle said 350-ft is all the subdivision regulations require the applicant to pave.

Cross asked if the park would be a public park.

Hogle said it is just proposed as parkland; not public. He said the parkland exceeds the required amount of land for parkland.

APPLICANT

Kris Caister, Flathead Geomatics, representing the applicant, said when Mann came to them a year ago the property was not in the shape it is now. There was a BLA in order to take the Bonneville Power Administration (BPA) easement out. Mann wanted to create a subdivision in the area and create homes that would be quality homes that fit with the neighborhood. The lot size is about ½-acre in size and it is a great location close to Columbia Falls. The lots are smaller pieces of land that they needed to work with to get individual septic systems on but they came up with something that works. The large park area resulted in a cluster subdivision so the applicant was able to exceed the park requirement. The largest issue is working out the road situation. He came up with 34 to 40 users of the road and found a road maintenance agreement. The parcels outlined in the orange are the parcels affected by the road maintenance agreement for Pheasant Road. Mann would add 350 ft of pavement to Pheasant Road. The unique condition read, *that in absence of a road maintenance agreement, the*

applicant would be responsible for maintaining Pheasant Road in it's entirety, but they have found a road maintenance agreement. Taylor Acres will be added on to the road maintenance agreement. Instead of paving 350 feet, the applicant proposed to chip-seal all of Pheasant Road.

Conger asked for a copy of the road maintenance agreement.

Caister handed out copies of the road maintenance agreement.

AGENCIES

None.

**PUBLIC
COMMENT**

Ed Perkins, 209 Pheasant Road, asked for a copy of the road maintenance agreement.

Hogle said he would get him a copy.

Perkins said he is concerned about the road. He showed on the map where he lived. The utility boxes are right along the side of the road so if the road gets shifted the utility boxes will have to be moved. He asked who is in charge of maintaining the common area. He said there are five residents at the end of the road and the minimum lot size is two acres. He thinks putting the subdivision in will make a huge impact in the area. He doesn't think chip-sealing the road would hold up very long.

Bob Harms, 227 Pheasant Road, owns property that corners Taylor Acres. Pheasant Road is probably three feet lower than all of the property around it. The water goes through his property and crosses Pheasant Road, then drains into Taylor Acres. If the road is built-up, where is the water going to go? He is concerned about traffic.

Leota Corteus, 191 Pheasant Road, finds the road maintenance agreement funny because only one person on it still lives in the area. She said half of the people on the agreement are dead or have moved away. The road won't make it with increased traffic. She just had the road surveyed and the middle of the road is way off.

**APPLICANT
REBUTTAL**

Kris Caister thanked everyone for bringing up their concerns. Moving the parkland to the North wouldn't be very helpful for them. The best position for the wells is how they are laid out now and moving lots would not be good for groundwater flow. The stakes fall North of the road. He said the driving surface of Pheasant Road does fall south of the 60-ft right-of-way that

exists. The covenants that should have been included with the subdivision application address there will only be quality homes; single-wide trailers are prohibited from the lots. H said the road maintenance agreement transfers with ownership.

Toavs asked how many feet there are from the end of the pavement to the end of the road.

Hogle said there would be approximately 400 feet of unpaved road.

**STAFF
REBUTTAL**

Hogle said the road maintenance agreement does transfer with ownership.

**BOARD
DISCUSSION**

None.

**MOTION TO
ADOPT F.O.F.**

Robertson made a motion seconded by Mower to adopt Staff Report FPP-07-24 as findings-of-fact.

**MOTION TO
AMEND F.O.F. #
5**

Fleming made a motion seconded by DeKort to amend finding-of-fact 5 to state: *Pheasant Road is currently misaligned to the south relative to the location of its easement. Due to the evidence presented in the "Effects on Local Services" section of this report the impact of this subdivision on local services is acceptable with the imposition of standard and unique conditions.*

The motion was carried by quorum.

**MOTION TO
AMEND
PARAGRAPH 6**

Robertson made a motion seconded by Conger to amend a paragraph of page 6 of the Staff Report to state:

*4. Effects on Local Services:
Roads: The subject property is accessed from the privately maintained paved/gravel Pheasant Road and all proposed lots would be accessed from proposed Mann Point. An existing Road User's Agreement for maintenance of Pheasant Road is filed with the Flathead County Clerk and Recorder's Office.*

The motion was carried by quorum.

**MOTION TO
AMEND F.O.F. #4**

Cross made a motion seconded by Conger to amend finding-of-fact 4 to state: *Stormwater and melt-water sometimes drain into natural swales on Lots 6 and 7 from property located toward the Northeast. Due to the evidence presented in the "Effects on the Natural Environment" section of this report, the impact of this subdivision on the natural environment is acceptable with the imposition of standard and unique conditions.*

The motion was carried by quorum.

**ROLL CALL TO
ADOPT F.O.F.**

On a roll call vote the motion passed unanimously.

**MOTION TO
APPROVE**

Robertson made a motion seconded by DeKort to recommend approval of FPP 07-24 to the County Commissioners.

**MOTION TO
AMEND COND #
5**

Fleming made a motion seconded by Robertson to amend finding-of-fact #2 and add a new unique condition to require the applicant to dedicate additional easement in favor of Flathead County to include the existing course of Pheasant Road where it traverses Taylor Acres.

Findings of Fact 2: The applicant shall dedicate additional easement in favor of Flathead County to include the existing course of Pheasant Road where it traverses Taylor Acres. Due to the evidence presented in the "Effects on Public Health and Safety" section of this report, the impact of this subdivision on health and safety is acceptable with the imposition of standard and unique conditions.

Unique Conditions 5: The applicant shall dedicate additional easement in favor of Flathead County to include the existing course of Pheasant Road where it traverses Taylor Acres.

The motion was carried by quorum.

**MOTION TO
AMEND COND #1**

Fleming made a motion seconded by Robertson to amend condition 1 to state: *Evidence of an existing Road User's Agreement for the maintenance of Pheasant Road has been provided and the document shall be amended to include the pro-rata share of the owners of all lots within Taylor Acres in regard to long term maintenance and snow removal responsibilities of Pheasant Road. The approved Road User's Agreement shall be filed as a separate document with the Flathead County Clerk and Recorder's office prior to or at the time of Final Plat. [Findings of Fact D.IV, Section 3.9.J.3, FCSR]*

The motion was carried by quorum.

**MOTION TO
AMEND COND
5**

Cross made a motion seconded by Toavs to amend condition 5 to state: *The storm water drainage system shall be designed to accommodate potential drainage from the Northeastern neighboring properties. The proposed water and sewage treatment system and storm drainage systems for the subdivision shall be reviewed by the Flathead County Health Department and approved by the Montana Department of Environmental Quality.*

The motion was carried by quorum.

**MOTION TO ADD
COND #15i**

Cross made a motion seconded by Toavs to add condition 5i to state: *No further subdivision of Lots is permitted.*

The motion was carried by quorum.

**MOTION TO ADD
COND #6**

Cross made a motion seconded by Robertson to add condition 6 to state: *All lots in the subdivision shall be accessed from the local (internal subdivision) road.*

The motion was carried by quorum.

**MOTION TO ADD
COND #7**

Toavs made a motion seconded by Conger to add condition 7 to state: *The applicant shall chip-seal Pheasant Road 24 feet wide from the pavement end to the eastern terminus of the road. The improvement shall meet current Flathead County road standards for chip-sealed roads, and the improved road section shall be re-aligned within the easement as it was established.*

On a roll call vote the motion passed unanimously.

**MAIN ROLL CALL
TO APPROVE**

On a roll call vote the motion passed 7-1 with Dziza dissenting.

**BOARD
DISCUSSION**

None.

**PRELIMINARY
PLAT/ASHLEY
TRAIL
FPP-07-14**

A request by Jay and Vicki Billmayer for Preliminary Plat approval of the Amended Lot 5, Ashley Trail Subdivision, a 4 lot single-family residential subdivision on 4.99 acres. Lots in the subdivision are proposed to have multiple-user water and individual septic systems. The property is located south of US Highway 2 West, off of South View Lane.

STAFF REPORT

Eric Giles reviewed Staff Report FPP 07-14 for the Board.

**BOARD
QUESTIONS**

Fleming asked if it was legal to have the mixing zone on the next person's property.

Giles said it is under the applicant's property.

Cross asked about the soil and septic system.

Giles said he can't answer the question but maybe the applicant could.

APPLICANT

Jay Billmayer, 274 Buffalo Hill Drive, is a project engineer and developer. He originally submitted his application in 2003 and there was a lot of controversy about evasion with family transfers. He has three children that he wanted to give a piece of property to. He worked with adjacent landowners to come up with covenants. His neighbor is Dawn Marquardt and she has covenants that say no additional splits can take place on her land. The entire subdivision will be paved and all the utilities are in place. He is working with the weeds department. He planned on paying cash-in-lieu of parks.

**BOARD
QUESTIONS**

Mower asked what the status was of the water rights.

Billmayer said they have been tested and if anyone is going to get an interim permit they would get one. Kurt Hafferman is a partner in his office and has been working on the water rights application.

AGENCIES

None.

**PUBLIC
COMMENT**

None.

APPLICANT REBUTTAL	None.
STAFF REBUTTAL	Giles said their approach is to certify 16 lots.
MOTION TO ADOPT F.O.F.	Cross made a motion seconded by Conger to adopt Staff Report FPP 07-14 as findings-of-fact.
MOTION TO ADD F.O.F. #10	Robertson made a motion seconded by DeKort to add finding-of-fact 10 to state: <i>The local road is constructed in accordance with the Flathead County Minimum Standards for Design and Construction and is certified by a licensed professional engineer as required by Section 3.9.J, 3.12.D, FCSR.</i>
ROLL CALL TO ADD F.O.F. #10	The motion passed 7-1 with Fleming dissenting.
MOTION TO ADD F.O.F. #11	Cross made a motion seconded by Robertson to add finding-of-fact 11 to state: <i>The well lot is a utility lot and ownership will be transferred to Flathead Utility Company.</i> The motion was carried by quorum.
MAIN ROLL CALL TO ADOPT F.O.F.	On a roll call vote the motion passed unanimously.
MOTION TO APPROVE	Fleming made a motion seconded by Conger to recommend approval of FPP 07-14 to the County Commissioners.
MOTION TO AMEND COND #19a	Fleming made a motion seconded by Robertson to amend condition 19a to state: <i>The well lot harbors the shared water system source and associated infrastructure for Ashley Trails Subdivision Amd Lot 5. The well lot may not be further subdivided.</i> The motion was carried by quorum.
MOTION TO ADD COND #18f	Fleming made a motion seconded by Robertson to add condition 18f to state: <i>No lot may be further subdivided.</i> The motion was carried by quorum.
MOTION TO DELETE CONDITION #3	Robertson made a motion seconded by Fleming to delete condition 3.

The motion was withdrawn.

**MOTION TO ADD
COND #23**

Fleming made a motion seconded by Toavs to add condition 23 to state: *The landscaping within the cul-de-sac shall be removed.*

**ROLL CALL TO
ADD COND #23**

On a roll call vote the motion passed 7-1 with Conger dissenting.

**ROLL CALL TO
APPROVE**

On a roll call vote the motion passed unanimously.

OLD BUSINESS

None.

NEW BUSINESS

Fleming discussed an article from a newspaper in Helena.

Robertson asked if there was going to be a quorum for Riverdale.

Conger asked about the new format for the Staff Report.

Giles said they are working on a new format for the Staff Reports.

The Board discussed the new format of Staff Reports.

Toavs said whoever put the signs up at development sites was great.

Grieve handed out a report on the Bighole water-shed use plan.

The Board received copies of Giles revised staff reports for Baby Buck and Red Thorr.

Grieve handed out a report on neighborhood plan reviews.

**MOTION TO
MOVE FORWARD
WITH
NEIGHBORHOOD
PLANS**

Robertson made a motion seconded by Conger to move forward with the neighborhood plans.

The motion was carried by quorum.

**BOARD
DISUCSSION**

Grieve said the riparian subdivision setback workshop was tentatively scheduled for 10/18/07.

Grieve discussed the Growth Policy implementation plan.

ADJOURNMENT

The meeting was adjourned at approximately 9:10 p.m. on a motion Robertson by seconded by DeKort. The next meeting will be held at 6:00 p.m. on September 19, 2007.

Gene Dziza, Chairperson

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 10/17/07